

BEFORE THE BOARD OF HEARING AID DISPENSERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC
amendment of ARM 24.150.510,) HEARING ON PROPOSED
regarding allowable dispensing fees) AMENDMENT

To: All Concerned Persons

1. On July 9, 2004, at 10:00 a.m., a public hearing will be held in room 438, Park Avenue Building, 301 South Park, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry (Department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Hearing Aid Dispensers (Board) no later than 5:00 p.m. on July 2, 2004, to advise us of the nature of the accommodation that you need. Please contact Helena Lee, Board of Hearing Aid Dispensers, 301 South Park, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2385; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsddhad@state.mt.us.

3. The Board proposes to amend the following existing rule, deleted matter stricken, new matter underlined:

24.150.510 TRANSACTIONAL DOCUMENT REQUIREMENTS - FORM AND CONTENT (1) through (4) remain the same.

(5) Notice of cancellation must be given to the seller in writing within 30 days of the date of delivery of the hearing aid or related device. The notice of cancellation may be delivered by mail or in person, and must indicate the purchaser's intent not to be bound by the sale. The purchaser shall return the hearing aid or related device in substantially the same condition as it was received. Under this provision, the hearing aid dispenser shall refund to the purchaser the amount paid, minus a dispensing fee, within 10 days of receipt of the written notice of cancellation. The dispensing fee per hearing aid or related device may not exceed 15% of the purchase price or \$250, whichever is less. All fees to be retained by the dispenser, in the event the hearing aid(s) is returned, shall be prominently displayed in a dollar amount on all transactional documents.

AUTH: 37-1-131, 37-16-202, MCA
IMP: 37-16-303, 37-16-304, MCA

REASON: The Board has determined it is reasonable and necessary to propose this amendment to specify the permissible maximum amount of a dispensing fee chargeable by a licensee. This rule

change will alleviate concerns expressed by the public regarding assessment of excessive fees by licensees and will provide guidance to licensees as to the 'proper amounts' of allowable dispensing fees. The AUTH and IMP cites are being amended to comprehensively state the sources of the Board's rulemaking authority and the statutes implemented by this rule as amended.

The Board does not have any solid data upon which to estimate the average number of consumers a year who are charged excessive dispensing fees. The Board receives at least 10 complaints a year about excessive dispensing fees. At an assumed price of \$6,000 a pair for hearing aids or devices, the savings to the consumer is approximately \$400 ($\$6,000 \times 15\% = \$900 - \$500 (2 @ \$250) = \400). The Board estimates that there will be consumer savings of at least \$4,000 per year.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Hearing Aid Dispensers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsddhad@state.mt.us, and must be received no later than 5:00 p.m., July 19, 2004.

5. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at <http://www.discoveringmontana.com/dli/had>. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Hearing Aid Dispensers maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Hearing Aid Dispensers administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Hearing Aid Dispensers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsddhad@state.mt.us, or may be made by completing a request form at any rules hearing held by the agency.

7. The Board of Hearing Aid Dispensers will meet at 1:00 p.m., July 29, 2004, during the Board's regular meeting in Helena, Montana at the Board's offices, 301 South Park, Helena, Montana, to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed amendment. Members of the public are welcome to attend the meeting and listen to the Board's deliberations.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

BOARD OF HEARING AID DISPENSERS
SUSAN KALARCHIK, CHAIRPERSON

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

Certified to the Secretary of State June 7, 2004.